
HOUSE BILL No. 1722

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-21.

Synopsis: Property tax replacement credits. Provides for state property tax replacement fund payments to school corporations based on the amount of the corporations' general fund levies, and eliminates the payments to political subdivisions other than school corporations.

Effective: July 1, 2005; January 1, 2006.

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January 19, 2005, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1722

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-21-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 2. As used in this
3 chapter:

4 (a) "Taxpayer" means a person who is liable for taxes on property
5 assessed under this article.

6 (b) "Taxes" means property taxes payable in respect to property
7 assessed under this article. The term does not include special
8 assessments, penalties, or interest, but does include any special charges
9 which a county treasurer combines with all other taxes in the
10 preparation and delivery of the tax statements required under
11 IC 6-1.1-22-8(a).

12 (c) "Department" means the department of state revenue.

13 (d) "Auditor's abstract" means the annual report prepared by each
14 county auditor which under IC 6-1.1-22-5, is to be filed on or before
15 March **† 15** of each year with the auditor of state.

16 (e) "Mobile home assessments" means the assessments of mobile
17 homes made under IC 6-1.1-7.

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(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes **imposed for the general funds of all taxing units school corporations** in a county ~~which that~~ are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted ~~however~~; for any postabstract adjustments ~~which that~~ change the amount of the aggregate levy; ~~minus~~ (B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed); IC 12-2-4.5 (repealed); IC 12-19-5; or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

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(F) the remainder of:

(i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
(ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

(i) IC 21-2-15 for a capital projects fund; plus
(ii) IC 6-1.1-19-10 for a racial balance fund; plus
(iii) IC 20-14-13 for a library capital projects fund; plus
(iv) IC 20-5-17.5-3 for an art association fund; plus
(v) IC 21-2-17 for a special education preschool fund; plus
(vi) IC 21-2-11.6 for a referendum tax levy fund; plus
(vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
(viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19; including any increases in these property taxes that are attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any other law; minus

(I) for each township in the county, the lesser of:

(i) the sum of the amount determined in IC 6-1.1-18.5-19(a) STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE, whichever is applicable; plus the part, if any, of the township's ad valorem property tax levy for calendar year 1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(4) filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for

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the stated assessment year under the authority of
 IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory
 established under IC 36-8-19-1, the amount of property taxes
 levied by each participating unit under IC 36-8-19-8 and
 IC 36-8-19-8.5 less the maximum levy limit for each of the
 participating units that would have otherwise been available
 for fire protection services under IC 6-1.1-18.5-3 and
 IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for
 the repayment of loans under IC 12-19-5-6 (repealed) that is
 included in the amount determined under IC 12-19-7-4(a)
 STEP SEVEN for property taxes payable in 1995; or for
 property taxes payable in each year after 1995; the amount
 determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county
 attributable to appeals granted under IC 6-1.1-18.6-3 that is
 included in the amount determined under IC 12-19-7-4(a)
 STEP SEVEN for property taxes payable in 1995; or the
 amount determined under IC 12-19-7-4(b) for property taxes
 payable in each year after 1995;

plus

(2) all taxes to be paid in the county in respect to mobile home
 assessments currently assessed for:

(A) the year in which the taxes stated in the abstract are to be
 paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that
 were applied by the taxing units in the county as property tax
 replacement credits to reduce the individual levies of the taxing
 units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad
 valorem property tax levies of the taxing units of the county were
 reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated
 assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR;
 minus

(B) the amount the civil taxing units' levies were increased
 because of the reduction in the civil taxing units' base year
 certified shares under IC 6-1.1-18.5-3(e); and

(B) the general funds of school corporations.

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(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 15 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is equal to the sum of the following:

(1) Sixty one hundred percent (60%) (100%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property excluding business personal property for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

(1) held for sale in the ordinary course of a trade or business; or
(2) held, used; or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

(1) Sixty one hundred percent (60%) (100%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on real property

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy on tangible personal property other than business personal property.

(m) (l) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property

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1 tax levy of a school corporation in a county for the school corporation's
2 general fund.

3 SECTION 2. IC 6-1.1-21-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 3. (a) The
5 department, with the assistance of the auditor of state and the
6 department of local government finance, shall determine an amount
7 equal to the eligible property tax replacement amount, which is the
8 estimated property tax replacement.

9 (b) The department of local government finance shall certify to the
10 department the amount of homestead credits provided under
11 IC 6-1.1-20.9 which are allowed by the county for the particular
12 calendar year.

13 (c) If there are one (1) or more taxing districts in the county that
14 contain all or part of an economic development district that meets the
15 requirements of section 5.5 of this chapter, the department of local
16 government finance shall estimate an additional distribution for the
17 county in the same report required under subsection (a). This additional
18 distribution equals the sum of the amounts determined under the
19 following STEPS for all taxing districts in the county that contain all
20 or part of an economic development district:

21 STEP ONE: Estimate that part of the sum of the amounts under
22 ~~section 2(g)(1)(A) and 2(g)(2)~~ **section 2(g)** of this chapter that is
23 attributable to the taxing district.

24 STEP TWO: Divide:

25 (A) that part of the estimated property tax replacement amount
26 attributable to the taxing district; by

27 (B) the STEP ONE sum.

28 STEP THREE: Multiply:

29 (A) the STEP TWO quotient; times

30 (B) the taxes levied in the taxing district that are allocated to
31 a special fund under IC 6-1.1-39-5.

32 (d) The sum of the amounts determined under subsections (a)
33 through (c) is the particular county's estimated distribution for the
34 calendar year.

35 SECTION 3. IC 6-1.1-21-4 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 4. (a) Each year
37 the department shall allocate from the property tax replacement fund
38 an amount equal to the sum of:

39 (1) each county's total eligible property tax replacement amount
40 for that year; plus

41 (2) the total amount of homestead tax credits that are provided
42 under IC 6-1.1-20.9 and allowed by each county for that year;

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(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under ~~section 2(g)(1)(A) and 2(g)(2)~~ **section 2(g)** of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments

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1 included in the December settlement sheet for the year, and such
2 additional information as the department may require.

3 (d) All distributions provided for in this section shall be made on
4 warrants issued by the auditor of state drawn on the treasurer of state.
5 If the amounts allocated by the department from the property tax
6 replacement fund exceed in the aggregate the balance of money in the
7 fund, then the amount of the deficiency shall be transferred from the
8 state general fund to the property tax replacement fund, and the auditor
9 of state shall issue a warrant to the treasurer of state ordering the
10 payment of that amount. However, any amount transferred under this
11 section from the general fund to the property tax replacement fund
12 shall, as soon as funds are available in the property tax replacement
13 fund, be retransferred from the property tax replacement fund to the
14 state general fund, and the auditor of state shall issue a warrant to the
15 treasurer of state ordering the replacement of that amount.

16 (e) Except as provided in subsection (i), the department shall not
17 distribute under subsection (b) and section 10 of this chapter the money
18 attributable to the county's property reassessment fund if:

19 (1) by the date the distribution is scheduled to be made, the
20 county auditor has not sent a certified statement required to be
21 sent by that date under IC 6-1.1-17-1 to the department of local
22 government finance;

23 (2) by the deadline under IC 36-2-9-20, the county auditor has not
24 transmitted data as required under that section; or

25 (3) the county assessor has not forwarded to the department of
26 local government finance the duplicate copies of all approved
27 exemption applications required to be forwarded by that date
28 under IC 6-1.1-11-8(a).

29 (f) Except as provided in subsection (i), if the elected township
30 assessors in the county, the elected township assessors and the county
31 assessor, or the county assessor has not transmitted to the department
32 of local government finance by October 1 of the year in which the
33 distribution is scheduled to be made the data for all townships in the
34 county required to be transmitted under IC 6-1.1-4-25(b), the state
35 board or the department shall not distribute under subsection (b) and
36 section 10 of this chapter a part of the money attributable to the
37 county's property reassessment fund. The portion not distributed is the
38 amount that bears the same proportion to the total potential distribution
39 as the number of townships in the county for which data was not
40 transmitted by October 1 as described in this section bears to the total
41 number of townships in the county.

42 (g) Money not distributed for the reasons stated in subsection (e)(1)

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and (e)(2) shall be distributed to the county when:

(1) the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1; and

(2) the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);

with respect to which the failure to send or forward resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; or

(B) a county assessor to forward copies of all approved exemption applications;

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances.

SECTION 4. IC 6-1.1-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which:

(1) under IC 6-1.1-22-9 are due and payable in May and November of that year; or

(2) under IC 6-1.1-22-9.5 are due in installments established by the department of local government finance for that year.

The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year ~~shall be~~ is based ~~upon~~ on the taxpayer's tax

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liability as is evidenced by the tax duplicate for the taxes payable in that year, ~~plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year; as provided in sections 2(g) and 3 of this chapter; adjusted however, for any change in assessed valuation which~~ **that** may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). ~~However, except when using the term under section 2(f)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B); 2(g)(1)(C); 2(g)(1)(D); 2(g)(1)(E); 2(g)(1)(F); 2(g)(1)(G); 2(g)(1)(H); 2(g)(1)(I); 2(g)(1)(J); or 2(g)(1)(K) of this chapter in computing the total county tax levy.~~

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

- (1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by
- (2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

SECTION 5. [EFFECTIVE JULY 1, 2005] (a) The legislative services agency shall prepare legislation for introduction in the 2006 regular session of the general assembly to organize and correct statutes affected by the amendment by this act of the definition of total county tax levy under IC 6-1.1-21-2(g).

(b) This SECTION expires July 1, 2006.

SECTION 6. [EFFECTIVE JANUARY 1, 2006] IC 6-1.1-21-2, IC 6-1.1-21-3, IC 6-1.1-21-4, and IC 6-1.1-21-5, all as amended by this act, apply only to property taxes first due and payable after December 31, 2006.

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